

REMARKS

Claims 1-5, 7-10, 13-17, 19-22 and 25 are pending. All pending claims are rejected under 35 U.S.C. §103(a) as being unpatentable over Montulli (US 5,774,670) in view of Deaton et al. (US 5,621,812) and in further view of Bly et al. (US 5,220,657).

Without admitting the propriety of the instant rejection, or that the cited references are indeed prior art, Applicant has submitted a declaration under 37 CFR 1.131 to swear behind the Montulli reference relied upon by the Examiner.

The attached declaration of Ralph Wesinger, a named co-inventor of the pending application, shows that the instant invention as claimed was reduced to practice prior to the earliest effective date of the Montulli reference.

The attached declaration shows that Mr. Wesinger conceived of the idea for a web site having the functionality as presently claimed at least by November 26, 1994. The site was live and functional at least by May 12, 1995, well before the October 6, 1995 filing date of the Montulli reference.

The attached declaration also shows that from conception, Mr. Wesinger exercised due diligence in reducing the invention to practice as evidenced through the hiring of co-inventor Mr. Coley in January of 1995. Upon his hiring, Mr. Coley set about to construct the data center necessary to host the web site. In February, 1995, Mr. Coley then began writing the code that ultimately resulted in the reduction to practice of the GolfUSA site that embodied the invention as claimed.

As can be seen from the attached declaration and exhibits, the GolfUSA site actually existed and worked for its intended purpose by at least May of 1995.

Applicant respectfully submits that the attached declaration and exhibits provide satisfactory factual evidence of the conception and subsequent reduction to practice of the invention as claimed prior to the effective date of the cited art per MPEP 715.07.

In light of the submitted declaration, it is respectfully submitted that the Montulli reference is no longer available under 35 U.S.C. §102(a)/(e), or 35 U.S.C. §103(a). See MPEP 715.

The attached declaration shows the conception and diligent reduction to practice of the subject matter as claimed in independent claims 1, 13, and 25. It is respectfully submitted that independent claims 1, 13, and 25 are now in a condition for allowance. Furthermore, it is believed that claims dependent therefrom are also in a condition for allowance for at least as being dependent from an allowable base claim. Accordingly, Applicant believes that all pending claims are in a condition for allowance.

Applicant respectfully traverses this rejection, and requests reconsideration of the pending claims.

If the Examiner has any questions regarding this application or this response, the Examiner is personally invited to telephone the undersigned at 775-848-5624.

Respectfully submitted,  
SIERRA PATENT GROUP, LTD.

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